

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. M-07-242-BA
)
SAMUEL SAINEZ,)
)
Defendant.)

ORDER

The Defendant was arrested in the Western District of Oklahoma on a petition for action on conditions of pretrial release. The Defendant requested a detention hearing at the initial appearance. This request was overruled. The present order memorializes this ruling and the reasons.

Under 18 U.S.C. § 3148, the Defendant is entitled to a revocation hearing. But the statute provides that after arrest, “the person shall be brought before a judicial officer in the district in which such person’s arrest was ordered for a proceeding in accordance with this section.” 18 U.S.C. § 3148(b). Under this section, the Western District of Oklahoma lacks authority to conduct a detention hearing. As one court explained:

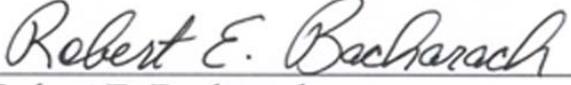
[W]hen a person is arrested pursuant to 18 U.S.C. § 3148(b) for violating Conditions of Release (other than failure to appear) and the arrest takes place in a district other than the district which ordered the arrest, the magistrate judge in the district of arrest has no power to hold a detention hearing and no power to release the defendant. Rather, the only function of the magistrate judge in the district of arrest is to hold an identity hearing, and if the person arrested is found to be the person named in the warrant, to order the

defendant's removal in the custody of the U.S. Marshal to the district in which the order of arrest was issued.

United States v. Zhu, 215 F.R.D. 21, 26 (D. Mass. 2003) (footnote omitted).

Accordingly, the Court overruled the Defendant's request for a detention hearing. Under 18 U.S.C. § 3148(b), the Defendant is to be transported by law enforcement officials to the Southern District of Texas. When he is brought to the Southern District of Texas, he will be entitled to a revocation hearing under 18 U.S.C. § 3148(b).

So ordered this 26th day of December, 2007.



Robert E. Bacharach
United States Magistrate Judge